I.   OVERVIEW

This presentation shall focus on the alternative methods used by various cities around the United States to determine how to fill a vacant office seat within their respective legislative bodies. The goal is to present an accurate and comprehensive breakdown of each city's methodology by analyzing data set compilations of the top 25 most populous US cities as well as Best Large Cities to Live Index published in July of 2016 by WalletHub. The latter compilation compared 62 cities in the U.S. with a population of more than 300,000 each across four key dimensions: 1) Livability, 2) Education, 3) Health, and 4) Local Economy & Taxes.[1] This is the exact same data set used by Edward Johnson and presented to the Charter Review Committee on the topic of council size.

This presentation's focus is a macro perspective offering categorical similarities within each city's method for filling a vacancy. In parsing the data, this presentation will offer insight into the process of filling a vacancy by looking at 1) the top 25 most populous US cities; 2) national trends by region; 3) a comparison of codified placements in charters, city/state codes, and state constitutions; 4) a comparison of a Best Large Cities to Live Index ranking; and 5) a conclusion.

II.   THE METHODOLOGY OF FILLING A VACANCY

Generally, there are three methods all cities in the data sets use to decide how to fill a vacancy: 1) an appointment process; 2) a special election; or 3) a hybrid approach. The hybrid approach incorporates both methods, with either process being triggered by several contingencies: 1) the date of a vacancy in relation to that particular city's next regular municipal election; 2) by whether the vacant seat is categorized as a district/ward or at-large seat; or 3) by preference for one method being used prior to implementation of the other.

III.   DEFINITIONS

To understand these processes more clearly, the terms used in legislation must be first defined.

   a. In General

      i. "Appointment" - While no city defines the term "appointment," Meriam-Webster's Dictionary defines the term as "the designation by virtue of a vested power of a person to enjoy an estate."[2]

      ii. "Vacant" - Under the same source, the term is "of a job or position; not occupied by a person; available to be taken by someone"[3]

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[1] https://wallethub.com/edu/best-worst-large-cities-to-live-in/14358/#methodology
[2] http://www.merriam-webster.com/dictionary/appointment

b. Elections

    i. With regards to the particular type of election called a "special election" it helps to put the term in context of other forms of elections. Under the Ohio Revised Code, there are several types of elections: General, Regular Municipal, Regular State, Primary, Presidential Primary, and finally a Special Election. Each type is specifically defined by the date on which the election shall be held, unless the Revised Code defers authority to a municipal charter.

        1. "General Election" is held on the first Tuesday after the first Monday in November[4]

        2. "Regular Municipal Election" is held on the first Tuesday after the first Monday in November in every odd-numbered year[5]

        3. "Regular State Election" is held on the first Tuesday after the first Monday in November in every even numbered year.[6]

        4. "Special Election" is "any election other than those elections defined in other divisions and may be held only on the first Tuesday after the first Monday in May, August, or November, or on the day authorized by a municipal or county charter for the holding of a primary election, except that in any year in which a presidential primary election is held, no special election shall be held in May, except as authorized by a municipal or county charter, but may be held on the first Tuesday after the first Monday in March."[7]

IV.   <u>TOP 25 MOST POPULOUS CITIES</u>

This analysis surveyed each of the top 25 most populous city's charter, city/state code, and/or state constitution. These cities, when ranked in order of highest population to lowest, included New York City, Los Angeles, Chicago, Houston, Philadelphia, Phoenix, San Antonio, San Diego, Dallas, San Jose, Austin, Jacksonville, San Francisco, Indianapolis, Columbus, Fort Worth, Charlotte, Seattle, Denver, El Paso, Detroit, Washington DC, Boston, Memphis, and Nashville.

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[3] http://www.merriam-webster.com/dictionary/vacant
[4] Ohio Rev. Code Ann. § 3501.01(A)
[5] Ohio Rev. Code Ann. § 3501.01(B)
[6] Ohio Rev. Code Ann. § 3501.01(C)
[7] Ohio Rev. Code Ann. § 3501.01(D)

Under each city's legislative authority on filling a vacancy, 8/25, or 32%, use an appointment process, 9/25, or 36%, use a special election, and the remaining 8/25, or 32%, use a hybrid approach combining both an appointment and a special election process.

I'd like to direct your attention to the PowerPoint slide to make a key point. In essence, no one particular approach dominated the top 25 most populous US cities' methodology for filling a vacant seat.

DIAGRAM A

CITY	METHODOLOGY	CITY	METHODOLOGY
Charlotte	APPOINTMENT	Austin	SPECIAL ELECTION
Chicago	APPOINTMENT	Dallas	SPECIAL ELECTION
Columbus	APPOINTMENT	Denver	SPECIAL ELECTION
Detroit	APPOINTMENT	El Paso	SPECIAL ELECTION
Indianapolis	APPOINTMENT	Fort Worth	SPECIAL ELECTION
Memphis	APPOINTMENT	Jacksonville	SPECIAL ELECTION
San Francisco	APPOINTMENT	Nashville	SPECIAL ELECTION
Seattle	APPOINTMENT	New York	SPECIAL ELECTION
Boston	HYBRID	Philadelphia	SPECIAL ELECTION
Houston	HYBRID		
Los Angeles	HYBRID		
Phoenix	HYBRID		
San Antonio	HYBRID		
San Diego	HYBRID		
San Jose	HYBRID		
Washington	HYBRID		

## V. NATIONAL REGIONS BREAKDOWN

Reviewing the trends from a regional perspective, it becomes clear particular methodologies are more prevalent than their alternatives. Nationally, the most dominant form of filling vacancies occur in four Midwest cities, which favor the appointment process, and four Southwest cities, which favor the special election process. The Southeast region is split evenly with two cities utilizing appointments and two utilizing special elections. The remaining regions that use appointments include two in the Far West. The remaining regions that use the special election process include two in the Mideast and one in the Rocky Mountain region.

Nationally, the process of filling vacancies with a hybrid process occurs in three cities in the Southwest and three in the Far West. The remaining two hybrid cities are situated in the Northeast, or New England region, and the Mideast.

The diagram shown here is a good way to separate out the different regions used in this analysis. The displayed chart is used for illustrative purposes only and is broken down by regions to aide in the discussion.

DIAGRAM B

Chart 1. Percent Change in Real GDP by State, 2011

U.S. Bureau of Economic Analysis
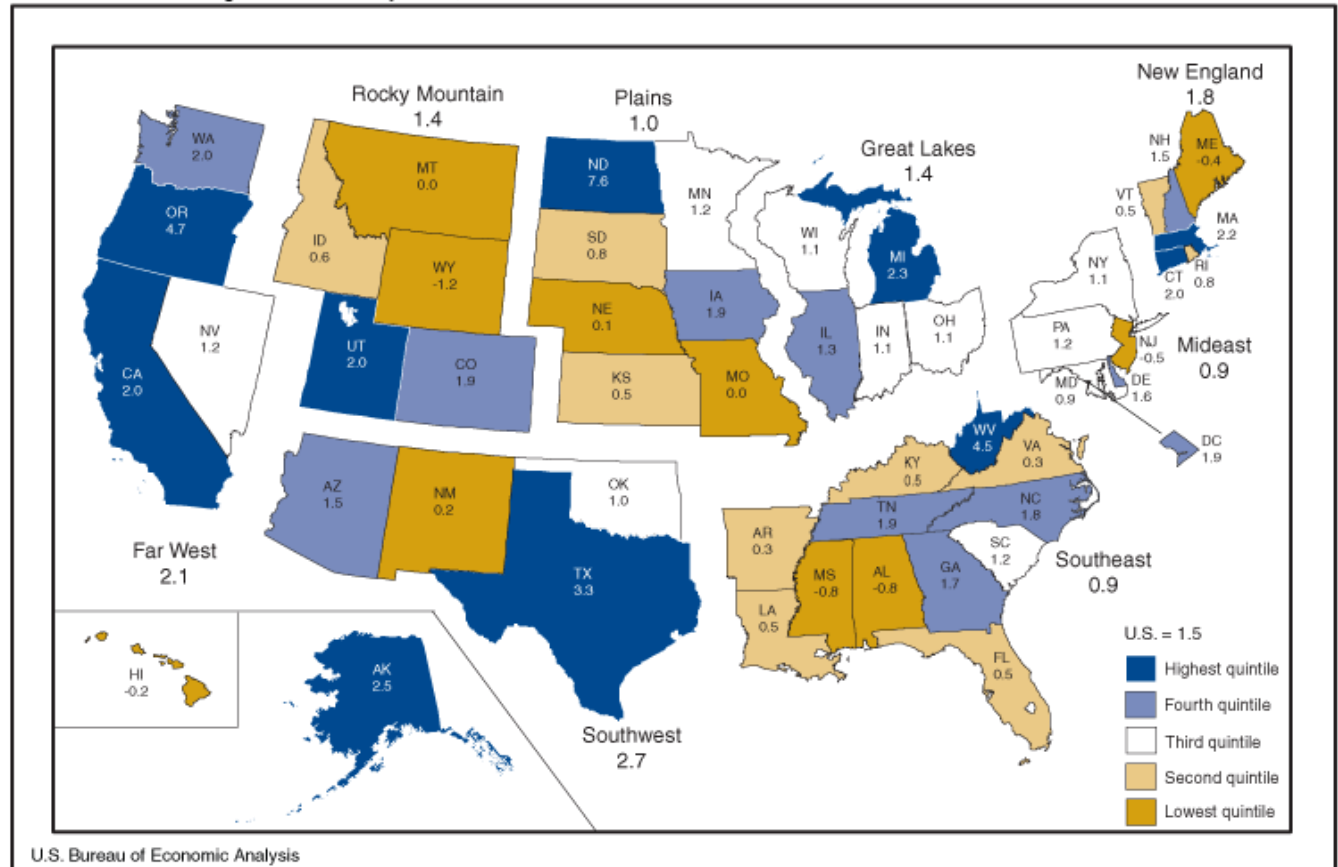
To simplify the categories of processes, some cities focus on appointments only, others are highly focused on a special election, and some cities use a hybrid method of both processes at the same time, or the hybrid method.

I would like to now call your attention to Diagram C on the presentation.

DIAGRAM C

CITY	REGION	METHODOLOGY	CITY	REGION	METHODOLOGY
San Francisco	FW	APPOINTMENT	Boston	NE	HYBRID
Seattle	FW	APPOINTMENT	Denver	RM	SPECIAL ELECTION
Los Angeles	FW	HYBRID	Charlotte	SE	APPOINTMENT
San Diego	FW	HYBRID	Memphis	SE	APPOINTMENT
San Jose	FW	HYBRID	Jacksonville	SE	SPECIAL ELECTION
Washington	ME	HYBRID	Nashville	SE	SPECIAL ELECTION
New York	ME	SPECIAL ELECTION	Houston	SW	HYBRID
Philadelphia	ME	SPECIAL ELECTION	Phoenix	SW	HYBRID
Chicago	MW	APPOINTMENT	San Antonio	SW	HYBRID
Columbus	**MW**	APPOINTMENT	Austin	SW	SPECIAL ELECTION
Detroit	MW	APPOINTMENT	Dallas	SW	SPECIAL ELECTION
Indianapolis	MW	APPOINTMENT	El Paso	SW	SPECIAL ELECTION
			Fort Worth	SW	SPECIAL ELECTION

As an overall comparison within this data set, there are several significant observations. The most populous cities in the Midwest have a dominant preference for. The entire Southeast does not prefer hybrid method at all as it has an equal number of special elections and appointment processes. Several regions show close preference between special elections/appointments and hybrid processes. For instance, when comparing special elections to hybrid preferences, the Southwest has 4-3 ratio and the Mideast has a 2-1 ratio. On the other hand, the Far West prefers the hybrid approach to the appointment process by a 3-2 ratio.

VI. CODIFICATION OF LAW: CHARTER, CODE, OR CONSTITUTION

A municipality has several options as to which legislative authority contains its process for filling a vacancy. A city may codify its law in a municipal charter, municipal or state code, or state constitution. In deciding where to codify, a city has to weigh the advantages and disadvantages of each source.

In general, a city council can pass an ordinance and such law is codified within a city code. The electorate does not have to approve of the ordinance's passage. However, because the law is in a city code section and not a city charter, the legislative process to replace such language or even repeal the law altogether with another ordinance can be fairly swift and unburdened. A city council can simply alter the law on its own. On the other hand, the process is more difficult to codify a law into a city charter as doing so generally requires a majority vote of the electorate. Depending on one's perspective, the benefit or harm to this option is that once the law is in the charter, any amendment or repeal would take another majority vote of the electorate. It is the city's equivalent to a state's constitution.

DIAGRAM D

CITY	REGION	LEGISLATIVE AUTHORITY	CITY	REGION	LEGISLATIVE AUTHORITY
Los Angeles	FW	CHARTER	Washington	ME	CITY CODE
San Diego	FW	CHARTER	Indianapolis	MW	CITY CODE
San Francisco	FW	CHARTER	Charlotte	SE	STATE CODE
San Jose	FW	CHARTER	El Paso	SW	STATE CONSTITUTION
Seattle	FW	CHARTER	Chicago	MW	CHARTER, CITY CODE, ST. CONSTITUTION
New York	ME	CHARTER			
Philadelphia	ME	CHARTER			
Columbus	**MW**	CHARTER			
Detroit	MW	CHARTER			
Boston	NE	CHARTER			
Denver	RM	CHARTER			
Jacksonville	SE	CHARTER			
Memphis	SE	CHARTER			
Nashville	SE	CHARTER			
Austin	SW	CHARTER			
Dallas	SW	CHARTER			
Fort Worth	SW	CHARTER			
Houston	SW	CHARTER			
Phoenix	SW	CHARTER			
San Antonio	SW	CHARTER			

Regardless of region or methodology, the preferred source for a top 25 most populous city's process for filling a vacancy is in a charter. Only 4/25, or 16%, of all remaining cities incorporate the law in a different source. In the data sets, all Far West, North East, and Rocky Mountain cities place the vacancy process in their charters. A near majority of South West, South East, Midwest, and Mid East cities also emphasize the process in charter form. The remaining cities (DC, Chicago, Indianapolis, and El Paso) use city codes, state constitution, or a hybrid of all three to govern their processes.

VII.   BEST CITIES INDEX[8]

According to US Census Bureau data, big cities are growing nearly twice as fast as they did during the 21st century's opening decade with a variety of factors fueling the trend in favor of more population density, diversity, ease of access to food, entertainment and other activities. But opportunity, both economic and personal, is the main driving force for most.[9]

Here, we used the same data set as was presented by Edward Johnson on the topic of size of council. With real estate and employment markets varying considerably across the country, the Best Large Cities to Live data set compared the attractiveness of the 62 largest U.S. cities in terms of 31

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[8] Data used to create these rankings were obtained from the U.S. Census Bureau, the U.S. Bureau of Labor Statistics, the Federal Bureau of Investigation, the Centers for Disease Control and Prevention, the Council for Community and Economic Research, the Child Care Aware of America, the National Partnership for Women & Families, GreatSchools.org, US Environmental Protection Agency, Environmental Working Group, Measure of America, Yelp and WalletHub research.

[9] https://wallethub.com/edu/best-worst-large-cities-to-live-in/14358/#methodology

relevant metrics, including measures of livability, health and education system quality, economic growth and tax burden.

Please refer to Diagram E. When comparing the top ten Best Large Cities to Live to the top 25 most populous cities, seven of the largest cities are among the top ten best cities to live in. Four of the top ten Best Large Cities are located in the Far West: San Francisco (1), Seattle (2), San Jose (6), and San Diego (8). Denver (5), Austin (7), and Washington DC (10) complete the remaining top ten Best Large Cities. It should be noted that the first Midwest city to make an appearance on the Best Large Cities Index is Columbus ranked 30th. Of the top ten Best Large Cities, all but DC codify their vacancy process in a charter form. DC is the exception and uses its city code.

DIAGRAM E

CITY	BEST CITIES INDEX	CITY	BEST CITIES INDEX
San Francisco	1	Fort Worth	39
Seattle	2	Phoenix	41
Denver	5	New York	42
San Jose	6	Jacksonville	43
Austin	7	Dallas	48
San Diego	8	San Antonio	49
Washington	10	El Paso	52
Charlotte	18	Chicago	53
Boston	19	Indianapolis	56
Nashville	27	Philadelphia	58
Columbus	**30**	Memphis	61
Houston	36	Detroit	62
Los Angeles	38		

VIII.   CONCLUSION

The analysis reveals that the Best Large Cities to Live are also not the very largest in the US. Six of the top places to live are among the 10th-22nd largest cities. These six cities, predominately in the Far West, also contain their process for filling a vacancy in a charter. Columbus, although 30th in Best Cities to Live, is the 15th largest city in the country, and can compare itself to the ranked cities near its population and the cities near its Best Index ranking. For example, Indianapolis is 14th largest, but #56 on the Best Cities index and uses an appointment process codified in city code. Fort Worth is 16th largest, but #39 on the Best Cities Index and uses a special election process in a city charter.

From a holistic perspective, there is not a consistent national common practice to fill a vacancy. All three methods, appointment, special election, or a hybrid, are represented in the data set near evenly. While no consensus exists, a comprehensive review of the nation's top 25 most populous cities and the Best Large Cities to Live demonstrates that Columbus' appointment methodology is compatible among the majority of processes in the Midwest region. Moreover, each of these Midwest cities place such appointment processes in their respective charter.

After analyzing the combination of national and regional trends with patterns in the areas of methodology and legislative sources, any decision regarding modification to the Columbus process might be best considered in terms of whether the current method is sustainable and meets the current and future needs of our residents.